

# Notice of Allowability

Application No.

10/649,480

Examiner

Bao Qun Li

Applicant(s)

STEGMANN ET AL.

Art Unit

1648

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed on 10/23/2006.
2. ☒ The allowed claim(s) is/are 1,20-34 and 36.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Bao Qun Li

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### **DETAILED ACTION**

#### **Response to the Request of changing inventorship filed under 37 C.F.R. 1.48(b)**

1. In view of the papers filed under 37 C.F.R. 1.48 (b) on August 25, 2005, the inventorship in this nonprovisional application has been changed by the deletion of Inventors Vitaliy, A. Kordyum, Iryna Yu Slavchenko, Svitlana I. Chernykh, and Oleksandr Vozianov.
2. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Bruce Campell  
SPE, Art Unit 1648  
TC 1600  
December 07, 2006



#### **Response to the Amendment**

This is to acknowledge the amendment filed on October 23, 2006, Claim 1 has been amended. Claims 2-19, 35 and 37 were canceled. Claims 1, 20-34 and 36 are pending and considered by the examiner.

#### ***Declarations under 37 C.F.R. 1.131***

3. The Declaration filed on August 25, 2005 under 37 CFR 1.131 is sufficient to overcome the Schumacher's reference Published on Feb. 24, 1998 in view applicant's Declaration under In re Katz filed on August 25, 2006 and amendment filed on August 25, 2006 that further canceled claims 12, 16-19 and 37, which priority were not granted to benefit the earlier filing date on July 27, 1998. Hereby, the rejections based on Schumacher's reference published on Feb. 24, 1998 were withdrawn.

### **REASONS FOR ALLOWANCE**

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1. The following is an examiner's statement of reasons for allowance: Applicant's response is persuasive to withdraw all art rejections in view of the amendment of claims and Declarations. Applicants insist that while cited references teach to use FGF in attempting to induce a new blood vessel generation, but there is no likelihood of success for a blood vessel formation and /or an improved cardiac function in their animal models via applying the FGF to the non-ischemic myocardial tissue during their experimentations. No prior art teaches or suggests that a direct injection of FGF-1 into the ischemic myocardial region can induce a new blood vessel formation and efficiently improve the cardiac function (See response filed on October 23, 2006).

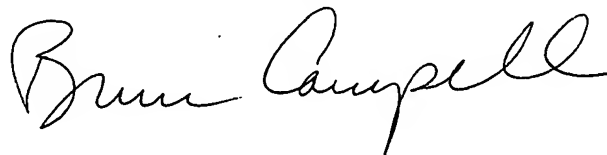
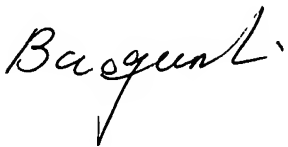
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 571-272-0904. The examiner can normally be reached on 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bao Qun Li

12/07/2006



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